

JOHN P. LOCKRIDGE

IBLA 2000-350

Decided May 22, 2003

Appeal from a decision of the Wyoming State Office, Bureau of Land Management, rejecting competitive oil and gas lease offers. Lease Nos. WYW 150772, WYW 150832, WYW 150833, WYW 150842, and WYW 150912.

Affirmed.

1. Oil and Gas Leases: Competitive Leases

Departmental regulations governing competitive lease sales provide that the balance of a bonus bid must be submitted within 10 working days after a competitive lease sale date. 43 CFR 3120.5-2(c). Failure to timely submit the required payment will result in bid rejection. 43 CFR 3120.5-3(a).

APPEARANCES: John P. Lockridge, Pebble Beach, California, pro se.

OPINION BY ADMINISTRATIVE JUDGE HEMMER

John P. Lockridge appeals from a July 20, 2000, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting his bids for oil and gas leases on each of five parcels submitted for leasing at a competitive oil and gas lease sale held in Cheyenne, Wyoming, on June 6, 2000. The leases are identified as lease Nos. WYW 150772, WYW 150832, WYW 150833, WYW 150842, and WYW 150912.^{1/}

^{1/} The leases are located on parcels identified as follows: Parcel 50, WY-0006-050, located in all or portions of secs. 6 and 8, T. 23 N., R. 83 W.; Parcel 125, WY-0006-125, located in all or portions of secs. 6, 7, 8, 17, and 18, T. 32 N., R. 96 W.; Parcel 126, WY-0006-126, located in all or portions of secs. 13, 14, and 15, T. 32 N., R. 96 W.; Parcel 139, WY-0006-139, located in all or portions of secs. 1, 2, 11, and 12, T. 32 N., R. 97 W.; and Parcel 229, WY-0006-229, located in all or portions of secs. 5 and 7, T. 24 N., R. 84 W., Sixth Principal Meridian, in Carbon and Fremont Counties, Wyoming.

Lockridge was the high bidder at the June 6 sale for each of these leases. Under the terms of BLM regulations at 43 CFR 3120.5-2(b), Lockridge properly paid the portion of the bonus bid due on that date. Under the terms of 43 CFR 3120.5-2(c), Lockridge was required to submit the balance of the bonus bid to BLM within 10 working days after the auction. Excluding weekends, the balance of the bonus bid was due in the BLM office by June 20, 2000, in the amount of \$17,584.00, under the terms of 43 CFR 3120.5-2(c).

Appellant sent the balance due in an envelope postmarked June 27, 2000, along with a letter dated June 26, 2000. The letter states that, “pursuant to your telephone discussion with Steve Matre today, we are enclosing payment for the balance due on five leases won at the June 6th lease sale.” (June 26, 2000, Letter from Lockridge to Pamela Lewis, BLM.) Lockridge explained that his office consists of a small, three-person staff which handles all accounting, lease, rentals, and administrative functions. Lockridge asserted that the individual directly responsible for issuing the check was involved in a family emergency during the week the payment was due and failed to generate the check. Id. at 1. Lockridge alleges that he was unable to detect this “clerical error” until June 21, 2000. Upon discovering the error, Lockridge states that someone in his office immediately telephoned BLM and spoke with BLM employees Lucero and Estorga, who indicated that there would be little Lockridge could do to correct the error. Lockridge was told that a Ms. Stevens would discuss the issue with Michael Madrid. At that point, Lockridge states that he delayed making a payment until “we received word back from the BLM.” Id. at 2.

The letter contains no indication of BLM’s advice or recommendation to Lockridge during the conversation described therein. Rather, in the letter, Lockridge asks BLM to exercise discretion in implementing the “10 working day rule” in accordance with 43 CFR 1821.2-2(g), and to permit him to submit the money late.

On July 20, 2000, BLM issued its decision rejecting Lockridge’s bid for failure to timely submit the balance due. BLM notified Lockridge that the monies submitted on the day of the sale in the amount of \$29,817.00, the minimum amount due, were forfeited. (Decision at 1.) BLM advised Lockridge that it would refund the payment of \$17,584.00, submitted on June 27. Id.

Lockridge timely appealed and requested a stay pending his appeal. Lockridge does not dispute the above facts in his Notice of Appeal and Statement of Reasons. Rather, he restates almost verbatim the explanation provided to BLM in his June 26, 2000, letter and asks the Board to “determine it is appropriate to accept our payment and issue these leases.” (Notice of Appeal at 2.) BLM forwarded the lease files containing the original leases. Accordingly, the Board did not decide the request for stay.

[1] Competitive leases are governed by regulations in 43 CFR Subpart 3120. These Departmental regulations provide that a successful bidder “shall submit the balance of the bonus bid to the proper BLM office within 10 working days after the last day of the oral auction.” 43 CFR 3120.5-2(c). “Failure to comply with § 3120.5-2(c) of this title shall result in rejection of the bid and forfeiture of the monies submitted under § 3120.5-2(b) of this title.” 43 CFR 3120.5-3(a).

The reasons given by Lockridge to explain why payment was late, although unfortunate, cannot serve as a basis for waiver of the regulatory payment requirement, which is strictly applied. Partnership One, Inc., 119 IBLA 7, 11 (1991). In that case we held: “Even if we were to find an equitable and justifiable reason for suspending the period for making payment until the bidder is placed on notice that additional funds are owing, there would be no reason to also extend the subsequent period for making payment beyond the 10 days provided by the regulation.” See also Morgan Richardson Operating Co., 126 IBLA 332, 333 (1993).^{2/}

Though he did not raise the issue in his Notice of Appeal, we note that in his June 26, 2000, letter to BLM, Lockridge contended that BLM has discretion in accepting payments for competitive lease bids pursuant to 43 CFR 1821.2-2(g). The regulation to which he cites was amended on October 1, 1999, and did not exist at the time period relevant to this case. The counterpart regulations in existence in 2000 at the time of his payment are 43 CFR 1822.15 and 43 CFR 1823.12. The first regulation, 43 CFR 1822.15(a)-(c) states that if an applicant fails to file a required document or payment within a specified time period, BLM may consider it timely filed if “[t]he law does not prohibit BLM from doing so”; “[n]o other BLM regulation prohibits doing so”; and “[n]o intervening third party interests or rights have been created or established during the intervening period.” The other regulation at 1823.12(a) states procedures for obtaining refunds from BLM “if the regulations provide that fees submitted to BLM must be returned.”

Here, the regulation at 43 CFR 3120.5-3(a) requires forfeiture of the bonus bid if the bid is untimely filed. Accordingly, Lockridge may not rely on the applicable

^{2/} In its decision, BLM commented that it would have accepted a payment postmarked by the U.S. postal service on June 20. We have held: “The regulations contain no provision authorizing BLM to consider as timely filed a payment which was postmarked, but not received, on the due date. Appellant's payment was received by BLM on the following Friday, 3 days after the due date. The reasons given by appellant explaining why payment was late cannot serve as a basis for waiver of the regulatory payment requirement, which is strictly applied.” Eastern American Energy Corp., 123 IBLA 300, 301 (1992).

rules to argue that his bid payment was timely.^{3/} Lockridge, therefore, has forfeited his \$29,817.00 payment of the minimum amount due on the leases pursuant to 43 CFR 3120.5-2(b).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed and the request for stay is moot.

Lisa Hemmer
Administrative Judge

I concur:

James F. Roberts
Administrative Judge

^{3/} The superceded rule, 43 CFR 1821.2-2(g)(1) and (2), contained the same language as that found today in 43 CFR 1822.15(a) and (c); it adds that a late payment will not be considered timely where BLM “determines that further consideration of the document or acceptance of the payment would unduly interfere with the orderly conduct of business.” *Id.* at (g)(3). During the time period from 1988-99, when both this regulation and the applicable Subpart 3120 regulations were in effect, no Board decision relied on 43 CFR 1821.2-2(g) to permit untimely filing of a final lease bid balance. Moreover, the cases cited above were issued while 43 CFR 1821.2-2(g) was effective.